Supreme Court, U.S.
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OFFICE OF THE CLERK

In The

Supreme Court of the United States

GEORGE E. KERSEY,

Petitioner,

v.

DANIEL C. CRANE AND TERENCE M. TROYER,

Respondents.

On Petition For Writ Of Certiorari To The Supreme Judicial Court Commonwealth of Massachusetts

PETITION FOR WRIT OF CERTIORARI

GEORGE E. KERSEY
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Pro Se

29pp

QUESTIONS PRESENTED FOR REVIEW

This Petition presents the following questions:

I. *WHETHER* a three-month suspension from the practice of law in Massachusetts for contempt of the Vermont Family Court, where the attorney was not admitted to practice, rather than the private reprimand imposed in the most nearly comparable case, was an appropriate sanction.

II. *WHETHER* the suspension order is "markedly disparate from sanctions imposed in similar cases" and Petitioner has complied in fact with the only outstanding contempt order from the Vermont Family Court.

III. *WHETHER* Petitioner's conduct is more severe than the conduct of the attorney in Mass. *Private Remand No. PR-92-37*, where the attorney was found in willful contempt of a child support order, but while the disciplinary proceeding was pending, the attorney paid a substantial portion of arrears in an attempt to comply with the court order. Here, while the disciplinary proceeding was pending, Petitioner also was in substantial compliance.

IV. *WHETHER* The Supreme Judicial Court of Massachusetts erred when it based its affirmance of a single justice, at least in part, on the erroneous allegation that the Petitioner "in this case has made no such attempt to comply" as in *Private Reprimand No. PR-92-37*.

V. *WHETHER* the sanction with a continued requirement to purge an outstanding contempt order after a suspension of three months is completely contrary to the Model Standards of the American Bar Association, which draw a distinction between suspensions

QUESTIONS PRESENTED FOR REVIEW – Continued

for six months or less, and suspensions for more than six months, whereby a lawyer who has been suspended for six months or less should be reinstated automatically (i.e., without establishing rehabilitation). Model Rules for Lawyer Discip. Enforcement 24.

VI. *WHETHER* Petitioner has been deprived of due process by an outstanding, unwarranted order for his arrest in Vermont which prevents him form appearing and presenting the change in circumstances that prevents him from paying the increased alimony ordered by the Vermont Court.

LIST OF PARTIES

1. GEORGE E. KERSEY, Petitioner
2. DANIEL C. CRANE, BAR COUNSEL; TERENCE M. TROYER, ASSISTANT BAR COUNSEL, Respondents

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PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully requests that a writ of certiorari issue to review the judgment of the Supreme Judicial Court, Commonwealth of Massachusetts in its case No. SJC-08137. A decision by the Supreme Judicial was entered August 15, 2000, and a Petition for Rehearing was subsequently denied.

OPINION BELOW

The opinion of the Supreme Judicial Court is reported and reprinted in the Appendix to this Petition commencing at page App. 6.

JURISDICTION

This Court has jurisdiction over the judgment of The Supreme Judicial Court of Massachusetts by virtue of 28 U.S.C., Section 1254.

THE CONSTITUTIONAL PROVISIONS, STATUTES AND RULES

U.S. Constitution, Amendments V and XIV

"No person shall . . . be deprived, of life, liberty or property, without due process of law."

"No state shall . . . deny to any person . . . the equal protection of the laws."

28 U.S.C. 1254 (Courts of appeals; certiorari; appeal; certified questions).

STATEMENT OF THE CASE

This is an action for discipline in Massachusetts against Petitioner based upon a complaint by an ex-wife's Vermont attorney who said he would complain unless additional monies were paid. Petitioner, who appeared *pro se* and is not admitted to practice in Vermont, was prevented from challenging this request for additional monies. There is an outstanding warrant ("*mittimus*") for his arrest, which the Vermont Family Court refuses to abate, notwithstanding that Petitioner has complied with the conditions of the *mittimus*.

The outstanding *mittimus* was issued after Petitioner failed to appear for a contempt hearing regarding the payment of alimony because he had been jailed on his prior appearance. A first contempt for failure to pay was resolved by payment from Petitioner's share of marital property proceeds. However, during a second hearing, while Petitioner was standing in court and explaining that he had fully complied, he was ordered to be manacled, about the hands and feet, and placed in the Vermont Correctional Institution until there was additional payment. This action was taken despite Petitioner's argument that he was in full compliance with the divorce decree, and that he did not have the additional funds. The Judge ordered the additional funds to be paid before Petitioner could be released from confinement.

Petitioner frantically called his associates to arrange a loan on the condition that there would be no further requests. Under these circumstances, Petitioner felt that he could not return to Vermont for a hearing on the only

outstanding third contempt in 1993 because of a repetition of the prior incarceration since Petitioner was not then able to provide any further monies on behalf of the ex-wife.

Petitioner was admitted to the Bar of Massachusetts in 1966 and practiced as a patent attorney, first in Boston and then in New York City.

Beginning about 1970 Petitioner became a full-time patent consultant to a Fortune 500 company. In 1989, when Petitioner became 62, he was terminated on account of age.

In 1991 when Petitioner was 64 with no pension, no IRA and no savings, his wife filed a complaint for divorce. At that time the wife had not only all of Petitioner's financial records but also his stock certificates.

To purge the outstanding 1993 contempt, Petitioner was to provide a copy of his 1990 tax return (which he did and re-submitted to Bar Counsel), copies of bank statements for 1991 (which was done), client billing and payment records (which was done), and stock transfer documents (not necessary since the Court had earlier ordered Petitioner's stock to be the property of the wife).

The complaint by the ex-wife's Vermont attorney was assigned by the Massachusetts Board of Bar overseers to Attorney Constance V. Vecchione, who met with Petitioner on a number of occasions, during which Petitioner fully cooperated and made available all the materials that were requested. Petitioner also engaged Vermont counsel who did not proceed because he used his retainer in correspondence and required further payments were

demanded, which were not available to Petitioner. Despite Petitioner's full cooperation with Attorney Vecchione, the matter was referred to a Hearing Committee, which ignored Petitioner's fully documented *de facto* compliance with the only outstanding, 1993 contempt order, and further ignored Petitioner's inability to provide the payments required, as evidenced by his tax returns which were in evidence.

The Hearing Committee recommended a one month suspension and no reinstatement until the outstanding Vermont contempt is purged. On appeal, Bar counsel objected and argued for three months with the observation that the Hearing Committee wanted to impose a lesser penalty than in *Ring, infra.*

Review was heard by a single justice on August 2, 1999. The single justice advised Petitioner to vacate the Vermont contempt *de jure*. Promptly after the hearing, Petitioner filed a motion to vacate with the Vermont Court on the ground of substantial compliance. A motion also was to abate the "mittimus" to allow Petitioner to appear and argue compliance. These motions were denied.

In the meantime, in September, 1999, a Term Suspension order was entered. Petitioner promptly asked for reconsideration because the suspension was made without making a determination of "whether the sanction imposed is markedly disparate from sanctions imposed in similar cases". *Matter of Garabedian,* 416 Mass. 20, 24 (1993). See *Matter of Tobin,* 417 Mass. 81, 88 (1994).

Although the Vermont Court refused to abate the *mittimus,* it subsequently did permit a telephone hearing

in which the ex-wife admitted that Petitioner had complied, as of 1993, with the requirements of the outstanding 1993 contempt order.

REASONS FOR GRANTING THE WRIT

This Court should grant the writ because Massachusetts made the following errors:

1. It held that a three-month suspension from practice of law, rather than private reprimand, was the appropriate sanction, despite the fact that the most nearly comparable case imposed a private reprimand.

2. It wrongly held the attorney in "continued and wilfull contempt of lawful court orders during the course of his personal divorce proceeding", despite the fact that the contempt arose from a refusal by the Vermont court to allow Petitioner to appear and the fact that Petitioner is in *de facto* compliance.

3. It purported to follow the Canons of the American Bar Association, but refused to apply Model Rule for Lawyer Disciplinary Enforcement 24 that a lawyer who has been suspended for six months or less should be reinstated automatically (i.e., without establishing rehabilitation).

SUMMARY OF ARGUMENT

PETITIONER HAS BEEN DEPRIVED OF *DUE PROCESS and EQUAL PROTECTION.* The suspension is inappropriate because it is "markedly disparate from

sanctions imposed in similar cases". *Matter of Garabedian*, 416 Mass. 20, 24 (1993). See *Matter of Tobin*, 417 Mass. 81, 88 (1994).

The imposition of discipline more stringent than previously imposed in the most nearly comparable case deprives Petitioner of Equal Protection. The Massachusetts Attorney Disciplinary Reports reveal only four cases that involved contempt in conjunction with divorce proceedings.

Only one case involved *out-of-state* divorce proceedings, namely *Private Rep. PR-92-37*, 8 Mass. Atty Disc. R. 334 (1992) where a respondent admitted in Massachusetts *and another state* (identified by Bar counsel as Florida) was in willful contempt of *child support orders*, but purged himself of all but $5,700. The only discipline was a private reprimand, and respondent did not have to complete the purge by paying the remainder.

Petitioner's conduct was not prejudicial to the administration of justice. This conduct resulted entirely from the unwillingness of the Vermont court to allow him an opportunity to defend himself. The Vermont procedure was to jail Petitioner until he made payments that he was not in a position to make, depriving him of *due process* in violation of the Federal and State Constitutions.

Petitioner has made *de facto* compliance with the outstanding contempt order, first, by full cooperation with Attorney Vecchione, and, second, by working with a *pro bono* attorney, before the Hearing Committee, to satisfy each and every item of the outstanding contempt order.

Petitioner has a Constitutional right to represent himself in his own case.

ARGUMENT

POINT I

THE IMPOSED THREE-MONTH SUSPENSION IS "MARKEDLY DISPARATE FROM SANCTIONS IMPOSED IN SIMILAR CASES"; THE IMPOSITION OF SUCH DISCIPLINE DEPRIVES PETITIONER OF EQUAL PROTECTION; THE DECISIONS RELIED UPON BELOW DO NOT APPLY TO THE PRESENT CASE

This matter involves a contempt order by an out-of-state (Vermont) Court against a litigant who was not admitted to practice there and who had no knowledge of Vermont domestic relations law.

In the only other disciplinary matter involving a contempt order in an *out-of-state* divorce proceeding, namely *PR-92-37, supra,* the discipline was a *private reprimand.*

Unlike the present case, where Petitioner was not admitted to practice in Vermont, respondent in *PR-92-37,* was *not only* admitted to practice in Massachusetts *but also in another state* and was found to be in willful contempt of *child support orders,* but purged himself of all but $5,700 of the arrearage. The only discipline imposed was a private reprimand, and the respondent was not required to complete the purge. Also unlike the situation in *PR-92-37,* where the controversy involved *child support,*

Petitioner's case involved *alimony*, which he made a diligent effort to pay voluntarily, but was placed in confinement, after being manacled in court because he had remitted about $9,000.00, which was in excess by about $7,000 of the amount actually owed under his divorce decree.

Further unlike the situation in *PR-92-37*, where the $5,700 *child support* arrearage was not paid, Petitioner borrowed about $4,000 to pay in full the total amount erroneously claimed.

To subject Petitioner to any more than a private reprimand would deprive him of Equal Protection. The Massachusetts Attorney Disciplinary Reports reveal only four cases that involved contempt in conjunction with divorce proceedings.

Only *PR-92-37, supra,* involved *out-of-state* divorce proceedings. The remaining cases in which an attorney was found in contempt during divorce proceedings were all in *Massachusetts*, and were coupled with other serious violations.

Thus *Matter of Hodges*, 11 Mass. Atty Disc. R 116 (1995) involved *four counts*, the first of which involved repeated failure to pay court ordered *child support* resulting in the issuance of arrest warrants and five alleged instances of contempt. The second count involved a retainer for which the attorney *failed to return* $2,500 which *he had not earned*. The third count involved a failure to respond to a client's request for an accounting and refund of the *unearned portion* of the fee. The fourth count involved a failure to respond to a client's repeated written requests. The fifth count involved neglect of three

cases, failure to respond, failure to return files, and failure to pay an outstanding bill.

None of the findings in *Hodges* apply to Petitioner.

In the *Matter of Okai*, 11 Mass. Atty Disc. R 187 (1995) there were *four* separate matters. First, *Okai* took a fee to represent a case, failed to do so and failed to cooperate with the Bar Counsel's investigation. Second, Okai failed to make a full refund of the unused balance of an advance until after a grievance was filed. Third, he failed to make weekly child support and alimony payments (where jail sentences were suspended as long as Okai complied), disposed of marital assets without court permission on three separate occasions.

None of the findings in *Okai* apply to Petitioner.

Finally, in the *Matter of Ring*, 427 Mass. 186, 192, 692 N.E.2d 35 (1998), where a Massachusetts attorney repeatedly and willfully disobeyed court orders in a divorce action commenced by his wife in Massachusetts, the court concluded that a suspension, rather than a public reprimand was appropriate and the attorney was suspended for three months.

Ring knew that what he was doing was wrong, but in his distress over his divorce he did not care. Unlike Ring, in the present case Petitioner appeared in a *Vermont* court in 1991 and 1992 where he was *not admitted to practice.*

Petitioner, who had been terminated from his corporate employment because of age, could not afford a lawyer and sought to defend himself, despite having practiced previously only as a patent attorney.

Petitioner had no knowledge of Domestic Relations law of Vermont.

Unlike Ring, who was able to comply with court orders involving money after incarceration, Petitioner was not, and is not, in a position to pay the moneys demanded by the Vermont court. His financial condition is apparent from his tax returns which have been submitted to his ex-wife and to Bar Counsel, and were in evidence below.

Moreover, unlike *Ring*, which involved a *Massachusetts* attorney found in contempt in a *Massachusetts* court, this case involves a Massachusetts attorney who sought to defend himself in a *Vermont* court, as is his Constitutional right.

The Mass. Supreme Judicial Court emphasized that Ring's conduct was selectively directed toward *denying his wife financial* assistance. Petitioner consistently has sought to provide financial assistance to his ex-wife.

Ring *knew* that what he was doing was wrong. In the present case Petitioner has always sought to do the right thing, but was prevented from appearing in the Vermont Court on an outstanding contempt charge because of his rightful fear of imprisonment from his inability to meet unwarranted financial demands imposed by the Vermont Court. Petitioner in this action has submitted extensive documentation showing that he has not been in a financial position to meet the unwarranted financial demands imposed by the Vermont court after he was terminated from his last regular management position as chief of a patent department in 1989.

POINT II

PETITIONER HAS COMPLIED *DE FACTO* WITH THE ONLY OUTSTANDING CONTEMPT ORDER FROM THE VERMONT COURT AND HAS BEEN PREVENTED FROM COMPLYING *DE JURE* BECAUSE OF THE OUTSTANDING WARRANT FOR HIS ARREST IF HE ATTEMPTS TO RETURN TO VERMONT

The evidence submitted on behalf of Petitioner shows *de facto* compliance with the only outstanding contempt order of the Vermont Court. He has continually sought to provide 25% of his gross income as alimony, as originally ordered by the Vermont court.

POINT III

PETITIONER HAS BEEN DEPRIVED OF DUE PROCESS BY THE OUTSTANDING ORDER FOR HIS ARREST IN VERMONT WHICH PREVENTS HIM FROM APPEARING AND PRESENTING HIS CHANGED CIRCUMSTANCES

Petitioner has a Constitutional right to appear in court to defend himself and present his case without being threatened with imprisonment if he appears.

CONCLUSION

Petitioner has been deprived of his Constitutional rights by being threatened with imprisonment if he appeared to defend himself in Vermont. He has been denied equal protection of the laws by a sanction that is markedly disparate from the most nearly comparable case.

The authority cited does not warrant discipline that has been imposed in the present case.

Respectfully submitted,

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(781) 581-5103

Dated: December 1, 2000

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS. SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
NO: BD-1999-032

IN RE: GEORGE E. KERSEY

ORDER OF TERM SUSPENSION

This matter came before the Court, Ireland, J., on an Information and Record of Proceedings and the Vote and Recommendation of the Board of Bar Overseers filed by the Board on May 12, 1999. Upon consideration thereof, it is ORDERED that:

1. GEORGE E. KERSEY is hereby suspended from the practice of law in the Commonwealth of Massachusetts for a period of three months. In accordance with S.J.C. Rule 4:01, sec. 17(3), the suspension shall be effective thirty days after the date of the entry of this Order. The lawyer, after the entry of this Order, shall not accept any new retainer or engage as lawyer for another in any new case or legal matter of any nature. During the period between the entry date of this Order and its effective date, however, the lawyer may wind up and complete, on behalf of any client, all matters which were pending on the entry date.

It is FURTHER ORDERED that:

2. Within fourteen (14) days of the date of entry of this Order, the lawyer shall:

a) file a notice of withdrawal as of the effective date of the suspension with every court, agency, or tribunal before which a matter is pending, together

with a copy of the notices sent pursuant to paragraphs 2(c) and 2(d) of this Order, the client's or clients' place of residence, and the case caption and docket number of the client's or clients' proceedings;

b) resign as of the effective date of the suspension all appointments as guardian, executor, administrator, trustee, attorney-in-fact, or other fiduciary, attaching to the resignation a copy of the notices sent to the wards, heirs, or beneficiaries pursuant to paragraphs 2(c) and 2(d) of this Order, the place of residence of the wards, heirs, or beneficiaries, and the case caption and docket number of the proceedings, if any;

c) provide notice to all clients and to all wards, heirs, and beneficiaries that the lawyer has been suspended; that he is disqualified from acting as a lawyer after the effective date of the suspension; and that, if not represented by co-counsel, the client, ward, heir, or beneficiary should act promptly to substitute another lawyer or fiduciary or to seek legal advice elsewhere, calling attention to any urgency arising from the circumstances of the case;

d) provide notice to counsel for all parties (or, in the absence of counsel, the parties) in pending matters that the lawyer has been suspended and, as a consequence, is disqualified from acting as a lawyer after the effective date of the suspension;

e) make available to all clients being represented in pending matters any papers or other property to which they are entitled, calling attention to any urgency for obtaining the papers or other property;

f) refund any part of any fees paid in advance that have not been earned; and

g) close every IOLTA, client, trust or other fiduciary account and properly disburse or otherwise transfer all client and fiduciary funds in his possession, custody or control.

All notices required by this paragraph shall be served by certified mail, return receipt requested, in a form approved by the Board.

3. Within twenty-one (21) days after the date of entry of this Order, the lawyer shall file with the Office of the Bar Counsel an affidavit certifying that the lawyer has fully complied with the provisions of this Order and with bar disciplinary rules. Appended to the affidavit of compliance shall be:

a) a copy of each form of notice, the names and addresses of the clients, wards, heirs, beneficiaries, attorneys, courts and agencies to which notices were sent, and all return receipts or returned mail received up to the date of the affidavit. Supplemental affidavits shall be filed covering subsequent return receipts and returned mail. Such names and addresses of clients shall remain confidential unless otherwise requested in writing by the lawyer or ordered by the court;

b) a schedule showing the location, title and account number of every bank account designated as an IOLTA, client, trust or other fiduciary account and of every account in which the lawyer holds or held as of the entry date of this Order any client, trust or fiduciary funds;

c) a schedule describing the lawyer's disposition of all client and fiduciary funds in the lawyer's possession, custody or control as of the entry date of this Order or thereafter;

d) such proof of the proper distribution of such funds and the closing of such accounts as has been requested by the bar counsel, including copies of checks and other instruments;

e) a list of all other state, federal and administrative jurisdictions to which the lawyer is admitted to practice; and

f) the residence or other street address where communications to the lawyer may thereafter be directed.

The lawyer shall retain copies of all notices sent and shall maintain complete records of the steps taken to comply with the notice requirements of S.J.C. Rule 4:01, Section 17.

4. Within twenty-one (21) days after the entry date of this Order, the lawyer shall file with the Clerk of the Supreme Judicial Court for Suffolk County:

a) a copy of the affidavit of compliance required by paragraph 3 of this Order;

b) a list of all other state, federal and administrative jurisdictions to which the lawyer is admitted to practice; and

c) the residence or other street address where communications to the lawyer may thereafter be directed.

5. A petition for reinstatement shall not be accepted for filing until such time as the lawyer has purged himself of contempt in the Vermont courts.

By the court (Ireland, J.)

/s/ Maura S. Doyle
Maura S. Doyle, Clerk

Entered: September 10, 1999

IN RE KERSEY
Cite as 733 N.E.2d 545 (Mass. 2000)

432 Mass. 1020
In the Matter of George E. KERSEY.

Supreme Judicial Court of Massachusetts.

August 15, 2000

Terence M. Troyer, Assistant Bar Counsel

George E. Kersey, pro se.

RESCRIPT.

The respondent, George E. Kersey, appeals from an order of a single justice suspending him from the practice of law for three months and requiring him to purge an outstanding contempt order before reinstatement. We affirm.

We have reviewed the entire record before the Board of Bar Overseers (board) and the single justice. An outline of the essential facts is as follows. In May, 1991, the respondent's wife filed a complaint for divorce in the Vermont Family Court. During the course of the divorce and related proceedings, the court adjudicated the respondent in contempt on three occasions for wilful violations of court orders. On April 20, 1993, the court ordered the respondent to provide his wife with various financial records and transfer ownership of certain stock to her in order to purge the contempt. The respondent has failed to comply with this order; a warrant for his arrest was outstanding at the time of the disciplinary hearings, and remains outstanding. The panel hearing the matter recommended that the respondent be suspended

for one month. The board recommended that the respondent be suspended for a three month period which, after a hearing, the single justice affirmed.

The respondent claims that the board erred in concluding that, by repeatedly violating court orders entered in his divorce action, he violated S.J.C. Rule 3:07, Canon 1, DR Rules 1-102(A) (5) and (6), and Canon 7, DR 7-106 (A), as appearing in 382 Mass. 787 (1981). There is no merit to this claim. By persisting in continued and wilful contempt of lawful court orders during the course of a personal divorce proceeding, the respondent clearly disregarded the rulings of a tribunal and engaged in conduct that was prejudicial to the administration of justice and adversely reflected on his fitness to practice law.

The respondent further contends that the sanction imposed by the single justice was unduly harsh. We review de novo the appropriate level of discipline; the sanction is not to be markedly disparate from what has been ordered in comparable cases. See *Matter of Doyle*, 429 Mass. 1013, 1013, 710 N.E.2d 955 (1999); *Matter of Kennedy*, 428 Mass. 156, 156, 697 N.E.2d 538 (1998). However, "[w]hile the review is de novo in the sense that no special deference is given to the single justice's determination, we, like the single justice before us, must be 'mindful that the board's recommendation is entitled to substantial deference.' " *Matter of Doyle, supra*, quoting *Matter of Tobin*, 417 Mass. 81, 88, 628 N.E.2d 1268 (1994).

Applying these principles, we conclude that the three month suspension was not markedly disparate from the results reached in similar cases. The disciplinary cases involving an attorney's contempt of court orders entered

in their own divorce or related proceedings range from a private reprimand, *Private Reprimand* No. PR-92-37, 8 Mass. Att'y Discipline Rep. 334 (1992), to a one year suspension, *Matter of Okai*, 11 Mass. Att'y Discipline Rep. 187, 188-189 (1995).

The respondent, relying on *Private Reprimand No. PR-92-37, supra*, contends that a private reprimand is the appropriate sanction. We have since recognized, however, that the appropriate discipline for "knowing violations of court orders, violations which caused injury to a party to the litigation or interfered with a legal proceeding, is a suspension . . . in order to demonstrate to the public and the bar that substantial, repeated contempt of court . . . is serious and requires stronger discipline than a public reprimand." *Matter of Ring*, 427 Mass. 186, 192, 692 N.E.2d 35 (1998). The three-month suspension recommended by the board and imposed by the single justice, therefore, was an appropriate sanction. The length of the suspension was not markedly disparate from that imposed in similar cases. *See id., supra* (suspending attorney from practice of law for three months for repeatedly disobeying court orders resulting in seven separate adjudications for contempt where evidence existed that attorney was suffering from emotional trauma at time of divorce); *Matter of Okai, supra* (suspending attorney for one year after he had been adjudicated in contempt on four separate occasions for repeatedly disobeying court orders, neglecting client, and failing to segregate client advance and refund unused balance); *Matter of Hodges*, 11 Mass. Att'y Discipline Rep. 116, 118 (1995) (suspending respondent for three months after he had been adjudged in contempt on five occasions for repeated failure to pay

court-ordered child support, neglected client, and failed to account for or refund to client unearned fees). *Cf. Matter of Finnerty*, 418 Mass. 821, 829, 830, 641 N.E.2d 1323 (1994) (suspending attorney for six months for intentionally misrepresenting his financial worth to court as several hundred dollars less than amount of which he was aware). Moreover the respondent's conduct is more severe than the conduct of the attorney in *Private Reprimand No. PR-92-37, supra*. There the attorney was found in wilful contempt of a child support order, but while the disciplinary proceeding was pending, the attorney paid a substantial portion of arrears in an attempt to comply with the court order. The respondent in this case has made no such attempt to comply.[1]

The order of the single justice is affirmed.

So ordered.

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[1] The respondent's contention that his case is distinguishable because he violated a Vermont and not a Massachusetts court order does not merit discussion.

Supreme Judicial Court for the
Commonwealth of Massachusetts
1412 Courthouse, Boston, Massachusetts 02108
(617) 557-1020

George E. Kersey
P.O. Box 836
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RE: No. SJC-08137

IN RE: GEORGE E. KERSEY

NOTICE OF DENIAL OF PETITION FOR REHEARING

The Petition for Rehearing filed in the above captioned case has been considered by the Court and is denied.

Susan Mellen, Clerk

Dated: September 8, 2000

To: Terence McBride Troyer, Ass't Bar Counsel
George E. Kersey
S.J.C. for Suffolk County